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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,995	10/15/2001	Vernon T. Brady	017750-732	9493

7590                    05/30/2007  
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EXAMINER	
BRINEY III, WALTER F	
ART UNIT	PAPER NUMBER
2615	

MAIL DATE	DELIVERY MODE
05/30/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/975,995	BRADY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Walter F. Briney III	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 12 March 2007.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1,2,11,12,19,25,26,29,36,37,40,76-83,86-94 and 97-102 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,11,12,19,25,26,29,36,37,40,76-83,86-94 and 97-102 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 March 2007 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

The drawings were received on 12 March 2007. These drawings are accepted.

### *Double Patenting*

The following forms the basis for all nonstatutory obviousness-type rejections set forth in this Office action:

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. **Claims 1, 2, 11, 12, 19, 25, 26, 29, 36, 37, 40, 76-83, 86-88, 90-94 and 97-102 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of Brady et al. (U.S. Patent 6,442,374) in view of Kumar et al. (US Patent 5,793,253) and further in view of Fenter (US Patent 4,459,651).**

**Claim 1** is limited to an "apparatus for full duplex wireless communication of information." As the applicant apparently has nothing to say regarding the propriety of the previous rejection, all effort will be focused on treating the new limitations presented in the instant amendment. The amendment to claim 1 takes the form of incorporating

the limitations from claims 84 and 85. These two claims were shown to be obvious in view of a prior art transmitter requiring power. Although not previously shown, it is axiomatic that the transmitter of Brady requires power just like the transmitter of Dent. Much like the disclosure of Dent, Brady fails to specify a suitable power source, making it incumbent on one of ordinary skill in the art at the time of the invention to exert ordinary effort, such as selecting from known solutions, a power source. Just as in the situation of starting from Dent, it would have been obvious to choose the power supply of Fenter. The regulator of Fenter serves to provide consumable power in a controlled manner such that power is provided with minimal circuit overhead, thereby reducing weight and size while increasing efficiency. See column 2, lines 1-16.

Regarding the claim language, Fenter teaches providing two outputs, depicted in figure 2 as a +24V and a +5V output. The +5V output is monitored at pin 04 of error amp 300. When the +5V output rises above a specified threshold, the error amplifier enables optical coupler 320, which prevents timer 240 from pulsing transistor 170, which effectively prevents further power from being transmitted to the secondary transfer circuits that form the +24V output. In this way, figure 2 of Fenter comprises a "regulator means having at least one DC voltage regulator for providing at least two DC output voltages (+24V and +5V)" and "means (300 and 320) for inhibiting a first (+24V) of said two DC voltage outputs when a second (+5V) of said two DC voltage outputs is above a predetermined threshold." See column 8, lines 52-66.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide power in the manner taught by Fenter to realize the aforesaid advantages in addition to the inherent need to provide power.

**Claims 2, 11, 12, 19, 25, 26, 29, 36, 37, 40, 76-83, 86-88, 90-94 and 97-102** are rejected for the same reasons presented above apropos claim 1 as well as the reasons set forth in the Non-Final Office Action filed 14 December 2006, incorporated herein by reference. Therefore, Brady in view of Kumar and further in view of Fenter makes obvious all limitations of the claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claim 1, 2, 11, 12, 19, 25, 26, 29, 36, 37, 40, 76-83, 86-88, 90-94 and 97-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dent (US Patent 5,619,503) in view of Kumar and further in view of Fenter.**

**Claim 1** is limited to an "apparatus for full duplex wireless communication of information." As the applicant apparently has nothing to say regarding the propriety of the previous rejection, all effort will be focused on treating the new limitations presented in the instant amendment. The amendment to claim 1 takes the form of incorporating the limitations from claims 84 and 85. These two claims were shown to be obvious in

view of a prior art transmitter requiring power. In review, Dent does not disclose regulating power, or for that matter any manner concerning power consumption. As power is a necessity for any of Dent's products to perform, it is incumbent upon one of ordinary skill in the art to select some type of power feeding mechanism. As such, the regulator of Fenter serves to provide consumable power in a controlled manner such that power is provided with minimal circuit overhead, thereby reducing weight and size while increasing efficiency. See column 2, lines 1-16.

Regarding the claim language, Fenter teaches providing two outputs, depicted in figure 2 as a +24V and a +5V output. The +5V output is monitored at pin 04 of error amp 300. When the +5V output rises above a specified threshold, the error amplifier enables optical coupler 320, which prevents timer 240 from pulsing transistor 170, which effectively prevents further power from being transmitted to the secondary transfer circuits that form the +24V output. In this way, figure 2 of Fenter comprises a "regulator means having at least one DC voltage regulator for providing at least two DC output voltages (+24V and +5V)" and "means (300 and 320) for inhibiting a first (+24V) of said two DC voltage outputs when a second (+5V) of said two DC voltage outputs is above a predetermined threshold." See column 8, lines 52-66.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide power in the manner taught by Fenter to realize the aforesaid advantages in addition to the inherent need to provide power.

**Claims 2, 11, 12, 19, 25, 26, 29, 36, 37, 40, 76-83, 86-88, 90-94 and 97-102** are rejected for the same reasons presented above apropos claim 1 as well as the reasons

set forth in the Non-Final Office Action filed 14 December 2006, incorporated herein by reference. Therefore, Dent in view of Kumar and further in view of Fenter makes obvious all limitations of the claims.

3. **Claim 89 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dent in view of Kumar in view of Fenter and further in view of Bhame et al. (US Patent 5,911,117).**  
**Claim 89** is rejected for the same reasons presented above apropos claim 1 as well as the reasons set forth in the Non-Final Office Action filed 14 December 2006, incorporated herein by reference. Therefore, Dent in view of Kumar and further in view of Fenter makes obvious all limitations of the claim.

#### ***Response to Arguments***

Applicant's arguments filed 12 March 2007 have been considered but are unpersuasive.

Applicant's claim amendments and arguments appear to point to the belief that the prior art does not teach the limitations new to claim 1, for example. However, the examiner previously indicated that Fenter teaches these limitations. To facilitate compact prosecution, the examiner has more fully illustrated the teachings of Fenter and their correspondence to the claim language in the above rejections.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter F. Briney III whose telephone number is 571-272-7513. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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SUPERVISORY PATENT EXAMINER

wfb  
5/24/07